

LSB 1022HH

30 BY KURTENBACH
 40
 50 Passed House, Date _____ Passed Senate, Date _____
 60 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 70 Approved

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A BILL FOR

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120 An Act relating to property assessment for purposes of
 130 property taxation, including property assessment guidelines
 140 and creation of a property assessment appeal board to hear
 150 appeals of the actions of local boards of review.

180 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 200 TLSB 1022HH 81
 210 sc/cf/24

10 MARGINS L

20 Section 1. NEW SECTION. 421.1A PROPERTY ASSESSMENT
 30 APPEAL BOARD.

40 1. A statewide property assessment appeal board is created
 50 for the purpose of establishing a consistent, fair, and
 60 equitable property assessment appeal process. The statewide
 70 property assessment appeal board is established within the
 80 department of revenue for administrative and budgetary
 90 purposes. The board's principal office shall be in the office
 100 of the department of revenue in the capital of the state.

110 2. a. The property assessment appeal board shall consist
 120 of three members appointed to staggered six-year terms,
 130 beginning and ending as provided in section 69.19, by the
 140 governor and subject to confirmation by the senate. Subject
 150 to confirmation by the senate, the governor shall appoint from
 160 the members a chairperson of the board to a two-year term.
 170 Vacancies on the board shall be filled for the unexpired
 180 portion of the term in the same manner as regular appointments
 190 are made. The term of office for the initial board shall
 200 begin January 1, 2007.

210 b. Each member of the property assessment appeal board
 220 shall be qualified by virtue of at least two years' experience
 230 in the area of government, corporate, or private practice
 240 relating to property appraisal and property tax
 250 administration. One member of the board shall be a certified
 260 real estate appraiser or hold a professional appraisal
 270 designation, one member shall be an attorney practicing in the
 280 area of state and local taxation or property tax appraisals,
 290 and one member shall be a professional with experience in the
 300 field of accounting or finance and with experience in state
 310 and local taxation matters. No more than two members of the
 320 board may be from the same political party as that term is
 330 defined in section 43.2.

340 c. The property assessment appeal board shall organize by
 350 appointing an executive secretary who shall take the same oath
 360 of office as the members of the board. The board shall set
 370 the salary of the executive secretary within the limits of the
 380 pay plan for exempt positions provided for in section 8A.413,
 390 subsection 2. The board may employ additional personnel as it
 400 finds necessary.

410 3. At the election of a property owner or aggrieved
420 taxpayer or an appellant described in section 441.42, the
430 property assessment appeal board shall review any final
440 decision, finding, ruling, determination, or order of a local
450 board of review relating to protests of an assessment,
460 valuation, or application of an equalization order.

470 4. The property assessment appeal board may do all of the
480 following:

490 a. Affirm, reverse, or modify a final decision, finding,
500 ruling, determination, or order of a local board of review.

510 b. Order the payment or refund of property taxes in a
520 matter over which the board has jurisdiction.

530 c. Grant other relief or issue writs, orders, or
540 directives that the board deems necessary or appropriate in
550 the process of disposing of a matter over which the board has
560 jurisdiction.

570 d. Subpoena documents and witnesses and administer oaths.

580 e. Adopt administrative rules pursuant to chapter 17A for
590 the administration and implementation of its powers, including
600 rules for practice and procedure for protests filed with the
610 board, the manner in which hearings on appeals of assessments
620 shall be conducted, filing fees to be imposed by the board,
630 and for the determination of the correct assessment of
640 property which is the subject of an appeal.

650 f. Adopt administrative rules pursuant to chapter 17A
660 necessary for the preservation of order and the regulation of
670 proceedings before the board, including forms or notice and
680 the service thereof, which rules shall conform as nearly as
690 possible to those in use in the courts of this state.

700 5. The property assessment appeal board shall employ a
710 competent attorney to serve as its general counsel, and
720 assistants to the general counsel as it finds necessary for
730 the full and efficient discharge of its duties,
740 notwithstanding section 13.7. The general counsel is the
750 attorney for, and legal advisor of, the board. The general
760 counsel or an assistant to the general counsel shall provide
770 the necessary legal advice to the board in all matters and
780 shall represent the board in all actions instituted in a court
790 challenging the validity of a rule or order of the board. The
800 general counsel shall devote full time to the duties of the
810 office. During employment as general counsel to the board,
820 the counsel shall not be a member of a political committee,
830 contribute to a political campaign, participate in a political
840 campaign, or be a candidate for partisan political office.

850 6. The members of the property assessment appeal board
860 shall receive a salary commensurate with the salary of a
870 district judge. The members of the board, any administrative
880 law judges, and any employees of the board, when required to
890 travel in the discharge of official duties, shall be paid
900 their actual and necessary expenses incurred in the
910 performance of duties.

920 Sec. 2. Section 428.4, unnumbered paragraph 1, Code 2005,
930 is amended to read as follows:

940 Property shall be assessed for taxation each year. Real
950 estate shall be listed and assessed in 1981 and every two
960 years thereafter. The assessment of real estate shall be the
970 value of the real estate as of January 1 of the year of the
980 assessment. The year 1981 and each odd-numbered year
990 thereafter shall be a reassessment year. In any year, after
1000 the year in which an assessment has been made of all the real

1010 estate in an assessing jurisdiction, the assessor shall value
1020 and assess or revalue and reassess, as the case may require,
1030 any real estate that the assessor finds was incorrectly valued
1040 or assessed, or was not listed, valued, and assessed, in the
1050 assessment year immediately preceding, also any real estate
1060 the assessor finds has changed in value subsequent to January
1070 1 of the preceding real estate assessment year. However, a
1080 percentage increase on a class of property shall not be made
1090 in a year not subject to an equalization order unless ordered
1100 by the department of revenue. The assessor shall determine
1110 the actual value and compute the taxable value thereof as of
1120 January 1 of the year of the revaluation and reassessment.
1130 The assessment shall be completed as specified in section
1140 441.28, but no reduction or increase in actual value shall be
1150 made for prior years. If an assessor makes a change in the
1160 valuation of the real estate as provided for, sections 441.23,
1170 441.37, 441.37A, 441.38 and 441.39 apply.

1180 Sec. 3. Section 441.21, subsection 1, Code 2005, is
1190 amended by adding the following new paragraph:

1200 NEW PARAGRAPH. h. The assessor shall determine the value
1210 of real property in accordance with rules adopted by the
1220 department of revenue and in accordance with forms and
1230 guidelines contained in the real property appraisal manual
1240 prepared by the department as updated from time to time, as
1250 long as such rules, forms, and guidelines are not inconsistent
1260 with or change the means, as provided in this section, of
1270 determining the actual, market, taxable, and assessed values.
1280 If the director of revenue determines that an assessor has
1290 willfully disregarded the rules of the department relating to
1300 valuation of property or has willfully disregarded the forms
1310 and guidelines contained in the real property appraisal
1320 manual, the department shall take steps to withhold the
1330 reimbursement payment authorized in section 425.1 to the
1340 county or city, as applicable, until the director of revenue
1350 determines that the assessor is in compliance. The department
1360 shall adopt rules relating to application of this paragraph.

1370 Sec. 4. Section 441.21, subsection 2, Code 2005, is
1380 amended to read as follows:

1390 2. In the event market value of the property being
1400 assessed cannot be readily established in the foregoing
1410 manner, then the assessor may determine the value of the
1420 property using the other uniform and recognized appraisal
1430 methods including its productive and earning capacity, if any,
1440 industrial conditions, its cost, physical and functional
1450 depreciation and obsolescence and replacement cost, and all
1460 other factors which would assist in determining the fair and
1470 reasonable market value of the property but the actual value
1480 shall not be determined by use of only one such factor. The
1490 following shall not be taken into consideration: Special
1500 value or use value of the property to its present owner, and
1510 the good will or value of a business which uses the property
1520 as distinguished from the value of the property as property.
1530 However, in assessing property that is rented or leased to
1540 low-income individuals and families as authorized by section
1550 42 of the Internal Revenue Code, as amended, and which section
1560 limits the amount that the individual or family pays for the
1570 rental or lease of units in the property, the assessor shall
1580 use the productive and earning capacity from the actual rents
1590 received as a method of appraisal and shall take into account
1600 the extent to which that use and limitation reduces the market

1610 value of the property. The assessor shall not consider any
 1620 tax credit equity or other subsidized financing as income
 1630 provided to the property in determining the assessed value.
 1640 The property owner shall notify the assessor when property is
 1650 withdrawn from section 42 eligibility under the Internal
 1660 Revenue Code. The property shall not be subject to section 42
 1670 assessment procedures for the assessment year for which
 1680 section 42 eligibility is withdrawn. This notification must
 1690 be provided to the assessor no later than March 1 of the
 1700 assessment year or the owner will be subject to a penalty of
 1710 five hundred dollars for that assessment year. The penalty
 1720 shall be collected at the same time and in the same manner as
 1730 regular property taxes. Upon adoption of uniform rules by the
 1740 ~~revenue~~ department of revenue or succeeding authority covering
 1750 assessments and valuations of such properties, ~~said the~~
 1760 valuation on such properties shall be determined in accordance
 1770 ~~therewith~~ with such rules and in accordance with forms and
 1780 guidelines contained in the real property appraisal manual
 1790 prepared by the department as updated from time to time for
 1800 assessment purposes to assure uniformity, but such rules,
 1810 forms, and guidelines shall not be inconsistent with or change
 1820 the foregoing means of determining the actual, market, taxable
 1830 and assessed values.

1840 Sec. 5. Section 441.35, unnumbered paragraph 2, Code 2005,
 1850 is amended to read as follows:

1860 In any year after the year in which an assessment has been
 1870 made of all of the real estate in any taxing district, ~~it~~
 1880 ~~shall be the duty of~~ the board of review to shall meet as
 1890 provided in section 441.33, and where ~~it~~ the board finds the
 1900 same has changed in value, ~~to~~ the board shall revalue and
 1910 reassess any part or all of the real estate contained in such
 1920 taxing district, and in such case, ~~it~~ the board shall
 1930 determine the actual value as of January 1 of the year of the
 1940 revaluation and reassessment and compute the taxable value
 1950 thereof, ~~and any.~~ Any aggrieved taxpayer may petition for a
 1960 revaluation of the taxpayer's property, but no reduction or
 1970 increase shall be made for prior years. If the assessment of
 1980 any such property is raised, or any property is added to the
 1990 tax list by the board, the clerk shall give notice in the
 2000 manner provided in section 441.36, ~~provided, however, that.~~
 2010 However, if the assessment of all property in any taxing
 2020 district is raised, the board may instruct the clerk to give
 2030 immediate notice by one publication in one of the official
 2040 newspapers located in the taxing district, and such published
 2050 notice shall take the place of the mailed notice provided for
 2060 in section 441.36, but all other provisions of ~~said that~~
 2070 section shall apply. The decision of the board as to the
 2080 foregoing matters shall be subject to appeal to the property
 2090 assessment appeal board within the same time and in the same
 2100 manner as provided in section 441.37A and to the district
 2110 court within the same time and in the same manner as provided
 2120 in section 441.38.

2130 Sec. 6. NEW SECTION. 441.37A APPEAL OF PROTEST TO
 2140 PROPERTY ASSESSMENT APPEAL BOARD.

2150 1. For the assessment year beginning January 1, 2007, and
 2160 all subsequent assessment years, appeals may be taken from the
 2170 action of the board of review with reference to protests of
 2180 assessment, valuation, or application of an equalization order
 2190 to the property assessment appeal board created in section
 2200 421.1A. However, a property owner or aggrieved taxpayer or an

2210 appellant described in section 441.42 may bypass the property
2220 assessment appeal board and appeal the decision of the local
2230 board of review to the district court pursuant to section
2240 441.38. For an appeal to the property assessment appeal board
2250 to be valid, written notice must be filed by the party
2260 appealing the decision with the executive secretary of the
2270 property assessment appeal board within twenty days after the
2280 date the board of review's letter of disposition of the appeal
2290 is postmarked to the party making the protest. The written
2300 notice of appeal shall include a petition setting forth the
2310 basis of the appeal and the relief sought. No new grounds in
2320 addition to those set out in the protest to the local board of
2330 review as provided in section 441.37 can be pleaded, but
2340 additional evidence to sustain those grounds may be
2350 introduced. The assessor shall have the same right to appeal
2360 and in the same manner as an individual taxpayer, public body,
2370 or other public officer as provided in section 441.42.

2380 Filing of the written notice of appeal and petition with
2390 the executive secretary of the property assessment appeal
2400 board shall preserve all rights of appeal of the appellant,
2410 except as otherwise provided in subsection 2. A copy of the
2420 appellant's written notice of appeal and petition shall be
2430 mailed by the executive secretary of the property assessment
2440 appeal board to the local board of review whose decision is
2450 being appealed. In all cases where a change in assessed
2460 valuation of one hundred thousand dollars or more is
2470 petitioned for, the local board of review shall mail a copy of
2480 the written notice of appeal and petition to all affected
2490 taxing districts as shown on the last available tax list.

2500 2. A party to the appeal may request a hearing or the
2510 appeal may proceed without a hearing. If a hearing is
2520 requested, the appellant and the local board of review from
2530 which the appeal is taken shall be given at least thirty days'
2540 written notice by the property assessment appeal board of the
2550 date the appeal shall be heard and the local board of review
2560 may be present and participate at such hearing. Notice to all
2570 affected taxing districts shall be deemed to have been given
2580 when written notice is provided to the local board of review.
2590 Failure by the appellant to appear at the property assessment
2600 appeal board hearing shall be grounds for dismissal of the
2610 appeal unless a continuance is granted to the appellant. If
2620 an appeal is dismissed for failure to appear, the property
2630 assessment appeal board shall have no jurisdiction to consider
2640 any subsequent appeal on the appellant's protest.

2650 An appeal may be considered by less than a majority of the
2660 members of the board, and the chairperson of the board may
2670 assign members to consider appeals. Appeals to the property
2680 assessment appeal board may also be considered by an
2690 administrative law judge assigned by the division of
2700 administrative hearings of the department of inspections and
2710 appeals in accordance with section 10A.801. If a hearing is
2720 requested, it shall be open to the public and shall be
2730 conducted in accordance with the rules of practice and
2740 procedure adopted by the board. However, any deliberation of
2750 the officer considering the appeal in reaching a decision on
2760 any appeal shall be confidential. The property assessment
2770 appeal board, or any member of the board, or administrative
2780 law judge may require the production of any books, records,
2790 papers, or documents as evidence in any matter pending before
2800 the board that may be material, relevant, or necessary for the

2810 making of a just decision. Any books, records, papers, or
2820 documents produced as evidence shall become part of the record
2830 of the appeal. Any testimony given relating to the appeal
2840 shall be transcribed and made a part of the record of the
2850 appeal.

2860 3. a. The officer considering the appeal shall determine
2870 anew all questions arising before the local board of review
2880 which relate to the liability of the property to assessment or
2890 the amount thereof. All of the evidence shall be considered
2900 and there shall be no presumption as to the correctness of the
2910 valuation of assessment appealed from. The property
2920 assessment appeal board shall make a decision in each appeal
2930 filed with the board. If the appeal is considered by less
2940 than a majority of the board or by an administrative law
2950 judge, the determination made by that person shall be
2960 forwarded to the full board for approval, rejection, or
2970 modification. If the initial determination is rejected by the
2980 board, it shall be returned for reconsideration to the board
2990 member or administrative law judge making the initial
3000 determination. Any deliberation of the board regarding an
3010 initial determination shall be confidential.

3020 b. The decision of the board shall be considered the final
3030 agency action for purposes of further appeal, except as
3040 otherwise provided in section 441.49. The decision shall be
3050 final unless appealed to district court as provided in section
3060 441.38. The levy of taxes on any assessment appealed to the
3070 board shall not be delayed by any proceeding before the board,
3080 and if the assessment appealed from is reduced by the decision
3090 of the board, any taxes levied upon that portion of the
3100 assessment reduced shall be abated or, if already paid, shall
3110 be refunded. If the subject of an appeal is the application
3120 of an equalization order, the property assessment appeal board
3130 shall not order a reduction in assessment greater than the
3140 amount that the assessment was increased due to application of
3150 the equalization order. Each party to the appeal shall be
3160 responsible for the costs of the appeal incurred by that
3170 party.

3180 Sec. 7. Section 441.38, Code 2005, is amended to read as
3190 follows:

3200 441.38 APPEAL TO DISTRICT COURT.

3210 1. Appeals may be taken from the action of the local board
3220 of review or from the action of the property assessment appeal
3230 board with reference to protests of assessment, to the
3240 district court of the county in which the board holds its
3250 sessions within twenty days after ~~its~~ the local board of
3260 review's adjournment or May 31, whichever date is later, or
3270 within twenty days after the letter of disposition of the
3280 appeal by the property assessment appeal board is postmarked
3290 to the appellant, whichever is applicable. No new grounds in
3300 addition to those set out in the protest to the local board of
3310 review as provided in section 441.37, or in addition to those
3320 set out in the appeal to the property assessment appeal board,
3330 if applicable, can be pleaded, but additional evidence to
3340 sustain those grounds may be introduced. The assessor shall
3350 have the same right to appeal and in the same manner as an
3360 individual taxpayer, public body or other public officer as
3370 provided in section 441.42. Appeals shall be taken by filing
3380 a written notice of appeal with the clerk of district court.
3390 Filing of the written notice of appeal shall preserve all
3400 rights of appeal of the appellant.

3410 2. Notice of appeal shall be served as an original notice
3420 on the chairperson, presiding officer, or clerk of the board
3430 of review, and on the executive secretary of the property
3440 assessment appeal board, if applicable, after the filing of
3450 notice under subsection 1 with the clerk of district court.

3460 Sec. 8. Section 441.39, Code 2005, is amended to read as
3470 follows:

3480 441.39 TRIAL ON APPEAL.

3490 ~~The~~ If the appeal is from a decision of the local board of
3500 review, the court shall hear the appeal in equity and
3510 determine anew all questions arising before the board which
3520 relate to the liability of the property to assessment or the
3530 amount thereof. The court shall consider all of the evidence
3540 and there shall be no presumption as to the correctness of the
3550 valuation of assessment appealed from. If the appeal is from
3560 a decision of the property assessment appeal board, the
3570 court's review shall be limited to the correction of errors at
3580 law. Upon trial of any appeal from the action of the local
3590 board of review or the property assessment appeal board fixing
3600 the amount of assessment upon any property concerning which
3610 appeal is made, the court may increase, decrease, or affirm
3620 the amount of the assessment appealed from. Its decision
3630 shall be certified by the clerk of the court to the county
3640 auditor, and the assessor, who shall correct the assessment
3650 books accordingly.

3660 Sec. 9. Section 441.49, unnumbered paragraph 5, Code 2005,
3670 is amended to read as follows:

3680 The local board of review shall reconvene in special
3690 session from October 15 to November 15 for the purpose of
3700 hearing the protests of affected property owners or taxpayers
3710 within the jurisdiction of the board whose valuation of
3720 property if adjusted pursuant to the equalization order issued
3730 by the director of revenue will result in a greater value than
3740 permitted under section 441.21. The board of review shall
3750 accept protests only during the first ten days following the
3760 date the local board of review reconvenes. The board of
3770 review shall limit its review to only the timely filed
3780 protests. The board of review may adjust all or a part of the
3790 percentage increase ordered by the director of revenue by
3800 adjusting the actual value of the property under protest to
3810 one hundred percent of actual value. Any adjustment so
3820 determined by the board of review shall not exceed the
3830 percentage increase provided for in the director's
3840 equalization order. The determination of the board of review
3850 on filed protests is final, subject to appeal to the property
3860 assessment appeal board. A final decision by the local board
3870 of review, or the property assessment appeal board, if the
3880 local board's decision is appealed, is subject to review by
3890 the director of revenue for the purpose of determining whether
3900 the board's actions substantially altered the equalization
3910 order. In making the review, the director has all the powers
3920 provided in chapter 421, and in exercising the powers the
3930 director is not subject to chapter 17A. Not later than
3940 fifteen days following the adjournment of the board, the board
3950 of review shall submit to the director of revenue, on forms
3960 prescribed by the director, a report of all actions taken by
3970 the board of review during this session.

3980 Sec. 10. Section 445.60, Code 2005, is amended to read as
3990 follows:

4000 445.60 REFUNDING ERRONEOUS TAX.

4010 The board of supervisors shall direct the county treasurer
4020 to refund to the taxpayer any tax or portion of a tax found to
4030 have been erroneously or illegally paid, with all interest,
4040 fees, and costs actually paid. A refund shall not be ordered
4050 or made unless a claim for refund is presented to the board
4060 within two years of the date the tax was due, or if appealed
4070 to the board of review, the property assessment appeal board,
4080 the state board of tax review, or district court, within two
4090 years of the final decision.

4100 MARGINS C

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EXPLANATION

4120 MARGINS L

4130 This bill relates to property assessment for purposes of
4140 property taxation by amending property assessment guidelines
4150 and creating a property assessment appeal board to hear
4160 appeals of the actions of local boards of review.

4170 The bill creates a statewide property assessment appeal
4180 board to hear appeals from action taken by local boards of
4190 review beginning with the assessment year beginning January
4200 1, 2007. However, an aggrieved taxpayer or property owner may
4210 bypass the statewide property assessment appeal board and
4220 appeal a decision of the local board of review directly to
4230 district court. The bill provides that the property
4240 assessment appeal board is created within the department of
4250 revenue. A decision of the property assessment appeal board
4260 may be appealed to district court.

4270 The bill requires local assessors, when assessing property,
4280 to use the forms and apply the guidelines contained in the
4290 real property appraisal manual prepared by the department of
4300 revenue. If the department determines that an assessor, when
4310 assessing property, is willfully disregarding rules, forms,
4320 and guidelines of the department, the department shall take
4330 steps to withhold the county's or city's homestead property
4340 tax reimbursement payment by the state until the assessor
4350 complies with the rules, forms, and guidelines.

4360 MARGINS F F

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